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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,276	10/25/2005	Harry Kiemele	2004P10212WOUS	3051

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EXAMINER	
EVANISKO, LESLIE J	

ART UNIT	PAPER NUMBER
2854	

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09/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/554,276	KIEMELE ET AL.	
	Examiner	Art Unit	
	Leslie J. Evanisko	2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 August 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) *2,4-7,9 and 11-15* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,8,10,16 and 17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02/09/09 & 10/25/05* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 17, 2009 has been entered.

Election/Restrictions

2. Claims 2, 4-7, 9 and 11-15 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 28, 2008.

Claim Objections

3. Claims 8 and 10 are objected to because of the following informalities:

With respect to claim 8, line 5, it is suggested that the term "a" (second occurrence) be deleted and replaced with --the-- since the print job was previously recited in line 5.

Appropriate correction and/or clarification is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Boreali et al. (US 6,210,515 B1).

With respect to claim 16, Boreali et al. teach a printer 10 comprising a supply 12 of printing medium; a medium transport device (i.e., the drive for platen roller 16) arranged such that the printing medium can be conveyed in an output transport direction; a control unit 20 to control the medium transport device; and where the control unit is arranged to activate the medium transport device in such a way that, at the start of an activation of the printer caused by a print job and before processing the print job, the medium transport device carries out a rest state (i.e., standby time), within which rest state transport, the medium transport device transports the printing medium in and/or counter to the output transport direction. Particular attention is invited to Figures 3 and column 4, line 30 through column 5, line 17.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 3, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakai et al. (JP 11-320989 A) in view of Boreali et al. (US 6,210,515 B1).

With respect to claim 1, Sakai et al. teach a printer comprising a supply of printing medium 1; a medium transport device (i.e., the drive for platen roller 3) arranged such that the printing medium can be conveyed in an output transport direction; a control unit to control the medium transport device; and where the control unit is arranged such that the control unit activates the medium transport device in such a way that the medium transport device carries out a rest state (i.e., standby time) transport at periodic intervals, even without the presence of a print job, wherein during the rest state transport, the medium transport device transports the printing medium in and/or counter to the output transport direction. Particular attention is invited to Figures 1-4, the English language abstract, and the previously attached partial English

language translation of Sakai et al. Note that Sakai et al. teach the rest state transport including the transport of the printing medium in and/or counter to the output transport direction occurs during a waiting or standby period between prints.

Note that Sakai et al. teaches carrying out a rest state transport at periodic intervals, but fail to specifically teach the transport device carries out a rest state transport at the start of an activation of the printer caused by a print job before processing the print job. However, Boreali et al. teach performing a rest state transport of the printing medium at the start of an activation of the printer caused by a print job before processing the print job is well known in the art. See, for example, Figure 3 and column 4, line 30 through column 5, line 18 of Boreali et al. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide the rest state transport of Sakai et al. to also occur at the start of activation of the printer as taught by Boreali et al. to insure that there is no inadvertent sticking of the print material to the drive roller caused by long wait times between activation of the printer for various print jobs.

With respect to claim 3, Sakai et al. teach the control unit is arranged to activate the medium transport device during the rest state transport in such a way that the printing medium is initially conveyed from an initial position counter to the output transport direction (i.e., backfed to resting position) and is then transported back into the initial position in the output transport direction. See for example, the description of the embodiments of Figs. 2-4 and particularly paragraphs [0014] and [0026] which teach backfeeding the label and then feeding a label forward again such that the print start position at the time of printing of the next time at the time of returning from a

waiting state does not shift. Note in particular paragraph [0014] of the partial translation indicates that an embodiment including reversing motion first and then rotating normally is also possible.

With respect to claim 8, Sakai et al. teach a method of controlling a printer comprising transporting a printing medium 1 with a medium transport device, even without a print job, in and/or counter to an output transport direction at periodic intervals during rest state transport. Sakai fails to teach transporting the printing medium at the start of an activation of the printer caused by a print job before processing the print job. However, Boreali et al. teach performing a rest state transport of the printing medium at the start of an activation of the printer caused by a print job before processing the print job is well known in the art. See, for example, Figure 3 and column 4, line 30 through column 5, line 18 of Boreali et al. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide the transporting of the printing medium of Sakai et al. to also occur at the start of activation of the printer as taught by Boreali et al. to insure that there is no inadvertent sticking of the print material to the drive roller caused by long wait times between activation of the printer for various print jobs.

See the previous comments with respect to claim 1. Although the printer of Sakai et al. does not specifically state that it may be used for printing out a report for a tachograph in a commercial vehicle, this language in the preamble is merely a functional recitation of an intended use and since the body of the claim fails to further limit the printer structure to that particular environment, it is the Examiner's position that the printer of Sakai et al. is capable of being used to print out a report for a tachograph as

recited and thereby meets the claim language as recited. Particular attention is invited to MPEP 2111.02.

With respect to claim 10, Sakai et al. teach the method includes during the rest state transport, the printing material is initially conveyed from an initial position counter to the output transport direction and is then transported back into the initial position in the output transport direction in paragraph [0014].

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boreali et al. (US 6,210,515 B1) in view of Sakai et al. (JP 11-320989 A).

With respect to claim 17, Boreali et al. teach the printer as recited with the exception of the control unit conveying the printing medium in the particular manner as recited. Specifically, note Boreali et al. teach conveying the printing medium from an initial position to a position in the same direction as the output transport direction (position aligned with cutter 18) and then transporting the printing medium back to a print position. Thus, Boreali et al. fails to specifically teach a conveying step including conveying the printing medium from an initial position *counter to* the output transport direction. However, Sakai et al. teach a control unit that is arranged to activate the medium transport device during the rest state transport in such a way that the printing medium is initially conveyed from an initial position counter to the output transport direction (i.e., backfed to resting position) and is then transported back into the initial position in the output transport direction. See for example, the description of the embodiments of Figs. 2-4 and particularly paragraphs [0014] and [0026] which teach backfeeding the label and then feeding a label forward again such that the print start

position at the time of printing of the next time at the time of returning from a waiting state does not shift. Note in particular paragraph [0014] of the partial translation indicates that an embodiment including reversing motion first and then rotating normally is also possible. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide the particular conveying steps as taught by Sakai et al. in the printer of Boreali et al. as it would simply require the obvious substitution of one known conveying cycle for another to prevent sticking of the printing medium to the drive roller.

Response to Arguments

10. Applicant's arguments with respect to claims 1, 3, 8, 10, 16 and 17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on T-F 8:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/*Leslie J. Evanisko*/
Leslie J. Evanisko
Primary Examiner
Art Unit 2854

lje
September 26, 2009